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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,874	04/09/2004	Werner Berens	P25062	9274
7055	7590	12/01/2006		
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER DODSON, SHELLEY A	
			ART UNIT	PAPER NUMBER
			1616	
DATE MAILED: 12/01/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/820,874	Applicant(s) BERENS ET AL.	
	Examiner SHELLEY A. DODSON	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

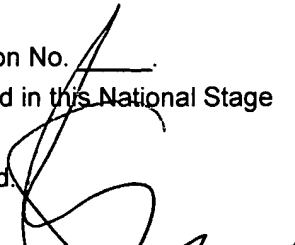
- 4) ☒ Claim(s) 3-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 3-42 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.


SHELLEY A. DODSON
PRIMARY EXAMINER

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claims 3-42 are pending in this application.

Action Summary

1.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2.

The rejection of claims 3-42 under 35 USC 102(e) as being anticipated by Griesbach et al. USP No. 6,706,696 B1 is being maintained for the reasons stated in the previous office action. The examiner of record recognizes that 102(b) was stated as the basis for the original rejection when it was first set forth and acknowledges that it was a typographical error. I apologize for the inconvenience of the typographical error and that since no changes have been made to the rejection and applicant has also acknowledged the error in the response, this action is being maintained under 35 USC 102(e).

Response to Arguments

3.

Applicant's arguments filed August 29, 2006 have been fully considered but they are not found persuasive.

Applicant's arguments are based upon a limitation in the instant claims, which is inherently possessed by the prior art. Applicant is reminded that claims 3-29 are directed toward a cosmetic or dermatological composition and that the prior art also teaches a cosmetic or dermatological composition, which contains the same exact compounds as those claimed by applicant in the instant case. Again applicant is reminded that in column 3, lines 1-65, Griesbach discloses that the cosmetic or pharmaceutical compositions contain nucleic acids, specifically purines and pyrimidines and their derivative which are used as skin care agents or coloring agents for the skin. Applicant argues that the present invention boost natural skin tanning and/or the stimulation of melanogenesis in human skin. Additionally applicant is further arguing that the compositions of the prior art do not necessarily contain free purine and/or pyrimidine bases. Applicant is arguing in the first instance statements of intended use and in the second instance a limitation, which is not claimed. Applicant's instant claims 3-29 are directed toward a composition. It is the examiner's position that statements of intended use carry no patentable weight when the composition is found in the prior art. Additionally, the products of the prior art are viewed as the same as those claimed in the instant invention when applicant is claiming one substance selected from purines or

pyrimidines. Applicant is arguing a limitation, which is not claimed. Also with respect to the method claims, it is still the examiner's position that the referenced compositions are identical to those claimed by the applicant and that compounds and compositions are inseparable from their properties. It is still being maintained that the referenced compositions would inherently boost or stimulate the product of melanin in the skin because the referenced compositions are the same as those claimed by applicant and that they are also employed as coloring agents or skin care composition to color or pigment the skin.

4.

Claims 3-42 remain rejected.

5.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephone Inquiries

6.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHELLEY A. DODSON whose telephone number is (571) 272-0612. The examiner can normally be reached from 7:30 AM to 4:00 PM Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter, can be reached at 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Shelley A. Dodson', with a stylized, flowing script.

Shelley A. Dodson
Primary Patent Examiner
Technology Center 1600